

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 01-0255P**

**Sales Tax**

**Calendar Years 1997, 1998, and 1999**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed on an audit completed on May 9, 2001.

1. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer's audit report revealed that the taxpayer failed to remit sales tax on all of its soft goods. Audit indicates that the total soft goods for 1997 were \$589,401, while the taxpayer reported \$198,055. Taxpayer reported one third of the total due. Auditor determined that the percent of error for 1997 based upon this information and the total lease amount was 13.74%. The percent of error was also applied to the total leases in 1998 and 1999.

Taxpayer merely makes a request for the penalty waiver based upon its past filing history, audit cooperation, and willingness to comply with all state imposed regulations. Taxpayer further states that the audit location recently moved from California to Kentucky and has experienced the trickle effects of employee turnover. Taxpayer further assures the Department that it has

exercised ordinary business care and prudence in complying with the law and did not willfully disobey any set tax laws, rules and or regulations.

Taxpayer, however, was aware that sales tax was due and should have remitted the tax. Taxpayer's sales tax report noted the sales tax collected but failed to remit the total due. Failure to do so constitutes negligence.

**FINDING**

Taxpayer's protest is denied.